IDT

Carl Wolf Billek
IDT Corporation
520 Broad Street
Newark, New Jersey 07102-3111
(973) 438-1000

June 19, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TWB-204
Washington, DC 20554

Re: Notice of Ex Parte

Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996
CC Docket No. 96-128

Request to Update Default Compensation Rate for Dial-Around Calls from Payphones
WC Docket No. 03-225

Dear Secretary Dortch:

On June 17, 2004, Carl Wolf Billek of IDT Corporation met with John Stover, Carol Canteen, Denise Coca, William Dever, Darryl Cooper and Scott Bergman to discuss issues pertaining to the above-listed dockets. Mr. Billek made the following points:

- The Commission should deny requests to reconsider and/or stay its decision that permits switch-based resellers ("SBRs") to remit compensation directly to payphone service providers ("PSPs").

- The Commission should extend the submission date for SBR Audits to October 1, 2004 or until the first payment is due, as there have been unforeseen difficulties for many SBRs.

- The Commission should not require SBRs or Intermediate Carriers to track and report noncompeted calls and/or capture the duration of all calls. Noncompeted calls are irrelevant to PSPs because they are noncompensable. Call duration is irrelevant because compensation is determined by whether the call is completed, not by call length.

- If the Commission does require the tracking and reporting of noncompeted calls and/or the capturing of the duration of all calls, it *must* delay the implementation of this requirement for one year, as SBRs do not have the capability and have not addressed this requirement in their audits.

- The Commission should not grant requests for increases in the default dial-around rate because the studies that accompanied the requests were not prepared in a manner consistent with the formula devised by the Commission.

- The Commission should not grant requests for increases in the default dial-around rate because consumers will be harmed.

- An increase in the dial-around compensation rate would have the paradoxical effect of further reducing the use of payphones.

- IDT demonstrated that many payphones charge only $0.25 per call, which is likely to be lower than the default per-call compensation rate if it is increased by the Commission. IDT further explained that if the Commission increases the dial-around compensation rate, it must implement safeguards to ensure that carriers that remit compensation are not compelled to remit compensation that exceeds the cost of a call from a payphone.

  The Commission has defined "fair compensation" as "the amount to which a willing seller (*i.e.*, PSP) and a willing buyer (*i.e.*, customer, or IXC) would agree to pay for the completion of a payphone call." (¶ 57 Third Report and Order, and Order on Reconsideration of the Second Report and Order) It would be inconsistent with the definition of fair compensation to permit PSPs to receive dial-around compensation that is greater than the amount PSPs charge their own users. Therefore, where a PSP charges less per call than the (revised) per-call rate, PSPs should not be permitted to receive dial-around compensation that exceeds the amount the PSP charges for the cost for the completion of a payphone call. PSPs must be required to provide entities that remit per-call compensation (service providers, clearinghouses, etc.) with a list of ANIs that charge less than the (revised) per-call rate. This list must contain the coin rate for each ANI. Remitting entities would be required to remit per-call compensation only for the amount the PSP charges end users for the cost of completion of a payphone call. Remitting entities would not be required to remit the default per-call rate for the payphones on the PSPs list.

Additionally, the Commission has stated, "the costs of one service should not be cross-subsidized by another service. That is, consumers making one type of call, such as a local coin call, should not pay a higher amount to subsidize consumers that make other types of calls, such as dial-around or toll-free calls." (¶ 57, Third Report and Order, and Order on Reconsideration of the Second Report and Order) While this statement was initially made to address concerns that dial-around compensation was sufficient, as a matter of principle, it applies equally in reverse: the Commission cannot increase the dial-around compensation rate until the PSPs have demonstrated that the dial-around default rate is not compensating PSPs reduced coin rates. To the degree the dial-around compensation rate is subsidizing these reduced coin rates, the subsidy must be removed.

- If the Commission raises the dial-around rate, it must provide sufficient time – one year – to permit calling card service providers to make all necessary changes and deplete existing calling card stock before implementing the default dial-around increase. The changes calling card service providers must make include (1) revising tariffs; (2) reprinting new card packaging and advertising materials; (3) providing notice to card partners for rate increases and renegotiating contracts; and (4) exhausting existing card stocks.

  IDT explained that it, like many providers of prepaid calling cards, have millions of calling cards within the distribution chain that list a payphone surcharge based on the card provider's expectation of a $0.24 dial-around rate. Due to the structure of the industry, these cards absolutely cannot be recalled or destroyed. Card providers need time to exhaust their existing stock. If card providers are compelled to charge their listed payphone surcharge rate even though the per-call compensation rate has increased, card providers will lose millions of dollars.

Sincerely,

/s/ Carl Wolf Billek

Carl Wolf Billek

cc: John Stover (via email)
Carol Canteen (via email)
Denise Coca (via email)
William Dever (via email)
Darryl Cooper (via email)
Scott Bergman (via email)